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It has been found advisable to begin and end the volumes of the REVIEW with the academic year. The current volume, therefore, will contain ten numbers, continuing until June, and subsequent volumes will begin with the November number of each year. The analytical index of the fifteen volumes will be issued shortly after the completion of the current volume, instead of in April as previously announced.

RENDITION OF DESERTERS FROM FOREIGN FORCES. — A case recently decided by the Supreme Court of the United States raises collaterally an interesting question in jurisdiction. The Cramp Ship Building Company was building the cruiser Variag for the Imperial Russian Navy under a contract providing that as fast as constructed the title should vest in the Russian Government, subject however to the right of rejection until possession was taken and payment made. At the request of the Russian Government, the Secretary of the Treasury admitted free of the immigration tax, an officer and fifty-three men who were to form part of the crew. After the Variag was launched, but before she was completed, one of these men deserted, with the intention of becoming a citizen of the United States. At the request of the Russian Vice-Consul, he was arrested and committed, under Art. 9 of the Treaty with Russia of 1832 (8 U. S. Stat. 444) providing for the arrest, etc., of "deserters from the ships of war and merchant vessels of their country." It was

held by the court (Fuller, C. J., Harlan, Gray, and White, JJ., dissenting) that he was a deserter from a ship of war within the meaning of the treaty. *Tucker v. United States ex rel. Alexandroff*, 22 Sup. Ct. Rep. 195. It is correctly stated that before the Variag was launched she could not be considered a ship. *The Jefferson*, 20 How. (U. S. Sup. Ct.) 393. But, though for purposes of admiralty jurisdiction she became a ship the moment she was launched, that should not conclude the question whether she was a ship of war within the meaning of the treaty. Furthermore, it is almost obvious that the object of the treaty provision is to prevent foreign vessels visiting our ports from being crippled by the desertion of their seamen; it is not for the purpose of aiding shipbuilding for foreign governments, and protecting the arrangements for completing and manning ships.

If, however, the conditions in the principal case do come within the treaty, the provisions of that treaty must, of course, be applied. The reasoning on which an affirmative conclusion is reached is somewhat fallacious. It is said that since the ship was built for the Imperial Russian Government, it is exempt from jurisdiction; and that being exempt from jurisdiction it must be a ship of war since it cannot be called a merchant vessel. It is submitted that this does not follow as a matter of course. Property of a sovereign is in every case exempt from jurisdiction in civil suits. *The Parlement Belge*, 5 P. D. 197, 214. In addition to this, by the terms of the contract, though property in the materials passed as the construction went on, the government had the right of rejection at any time up to completion and final payment. The vessel was in the hands of the builders, had not been accepted nor commissioned by the Russian Government, and it would seem to follow therefore that she was not a ship of war; for it is not armament but the flag and commission that make a vessel a ship of war. See *Schooner Exchange v. McFaddon*, 7 Cranch (U. S. Sup. Ct.) 116, 146; see also HALL, INTERNAT. LAW, § 44. Accordingly it would seem that the deserter in the principal case should not be considered a deserter from a ship of war within the meaning of the treaty. Yet the man is undoubtedly a deserter from the Russian navy and the question arises whether a different result may be reached on the assumption that the detail of the officer and fifty-three men is a military force entering the country by the permission of the executive. When a military force of another sovereign is permitted to enter or pass through the territory of a state, the force while in the territory is exempt from jurisdiction. WHEATON, INTERNAT. LAW, § 99. The reason of this is obvious. Unless the officers are allowed to exercise the restraints of their own law over their men, the morale of the force may be destroyed. See *Schooner Exchange v. McFaddon*, *supra*. It would follow, then, that the exemption from jurisdiction is enjoyed only so long as the force remains a force. If a man separates from that force, there is no apparent ground to justify recapture by his officer. The law of another country cannot be exercised unless the local sovereign permits, and the permission granted to the force to enter cannot be construed into permission to enforce foreign law beyond the spot where the force is. When the man has deserted, he is like any other person, citizen or alien, subject to local jurisdiction. Desertion from a foreign army or navy is not an extraditable offence, and it would seem that unless it be made so, a deserter should in no case be returned.